XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(11)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथ आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH BILASPUR

CRIMINAL APPEAL NO. 1047 OF 2001

DIVISION BENCH **HON'BLE SHRI L.C. BHADOO, &**
HON'BLE SHRI DHIRENDRA MISHRA, JJ

APPELLANT Kondaram, S/o Sukhu, Caste Pahari Korwa, aged 35 years, Occupation Agriculture, R/o Ladua, Police Station Shankargarh, District Sarguja, Ambikapur (C.G.)

Versus

RESPONDENT : State of Chhattisgarh, Through the Police Station – Shankargarh, District Sarguja, Ambikapur (C.G.)

Present

Mr. V.P. Gupta, counsel for the accused/appellant.
Mr. Ashish Shukla, G.A. for the State/respondent.

ORAL JUDGMENT
(28th June 2007)

Per L.C. Bhadoo, J

This appeal is directed against the judgment of conviction and order of sentence dated 18.10.2001 passed by III Additional Sessions Judge, Ambikapur in Sessions Trial No. 133/2000 whereby learned Additional Sessions Judge after holding the accused/appellant guilty,

(12)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

for committing the murder of Godma, sentenced him to undergo imprisonment for life.

2. Case of the prosecution, in brief, is that accused Kondaram was residing in the house of deceased Godma. He used to graze the cattle of Godma. As the cattle spoiled the crop of tomato of deceased Godma, he rebuked the accused and on account of that animosity when the deceased along with his family, was sleeping in his house, accused attacked the deceased with axe, as a result of which Godma died on the spot. At the time of incident, wife of the deceased Godma and his daughter woke up. They witnessed the incident. Wife of the deceased caught the accused at the place of occurrence but the accused after throwing the axe on the spot, ran away. The matter was reported by PW-1 Nankaram, brother of the deceased in the police station Shankargarh whereupon Merg intimation (Ex.P/1) was registered. Based on that, First Information Report (Ex.P/2) was registered for commission of the offence under Section 302 of the IPC. The investigating officer after giving notice (Ex.P/3) to the Panchas, left for the scene of occurrence and prepared the inquest (Ex.P/4) on the body of deceased Godma. Bloodstained and plain soil was taken into possession under Ex.P/7. The axe in question was seized under Ex.P/8 from the place of occurrence. Dead body of Godma was sent for postmortem examination to Primary Health Center, Shankargarh under Ex.P/10 where Dr. J.Kujur (PW-12), conducted postmortem and prepared the postmortem report (Ex.P/15) in which he opined that cause of death was shock and hemorrhage due to injury to vital organ (Heart) and cervical region. Site plan (Ex.P/11) was prepared. After

(13)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

completion of investigation charge sheet was filed against the accused/appellant in the Court of Judicial Magistrate First Class, Ambikapur, who in turn committed the case to the Court of Sessions Judge, Ambikapur from where learned III Additional Sessions Judge, received the case on transfer for trial.

3. Prosecution in order to establish the charge against the accused examined 12 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime.

4. Learned Additional Sessions Judge, after hearing counsel for the respective parties convicted and sentenced the accused/appellant as aforementioned.

5. We have heard Mr. V.P. Gupta, counsel appearing on behalf of the accused/appellant and Mr. Ashish Shukla, G.A. for the State/respondent.

6. Mr. Gupta, has not disputed the homicidal death of Godma. Moreover, PW-3 Khuleshwari, PW-4 Somanti, who are wife and daughter of the deceased respectively, have categorically stated that accused Godma used to reside with them, in the fateful night he was sleeping in their house, when he attacked Godma with axe, they woke up and saw the accused again attacking the deceased with axe. The above ocular evidence stands corroborated by the medical evidence of Dr. J. Kujur (PW-12), who has stated that he conducted postmortem

(14)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	on the body of deceased Godma and opined that cause of death was shock and hemorrhage due to injuries on the ribs and cutting of the windpipe. Death was homicidal in nature. Therefore, in view of above ocular and medical evidence it is established that death of Godma was homicidal in nature.	
	7. As far as involvement of the accused/appellant in crime in question is concerned, PW-3 Khuleshwari and PW-4 Somanti have stated in their evidence that in the fateful night, the accused was sleeping with them in their house where they were sleeping, in the night all of a sudden the accused started attacking deceased Godma with axe, they woke up and saw the accused again attacking the deceased on his chest and other parts of the body. When PW-3 Khuleshwari caught the accused, he ran away throwing the axe on the spot. Thereafter, brother of the deceased PW-1 Nankaram was informed and he lodged the report in the police station. In the cross-examination of the above two witnesses, the defence has not been able to elicit any circumstance which discredits the evidence of these two witnesses. Moreover, the evidence of these two witnesses is corroborated by the medical evidence of Dr. J. Kujur (PW-12), who has stated that he conducted postmortem on the body of deceased Godma and noticed that (i) there was an incised wound in the size of 3" x 2" x 1" on the jaw and jaw bone was cut, (ii) there was incised wound in the size of 4.5" x 2" x 2.5" extending from left side of the neck to the back, injury was oblique and spindle in shape, 5th, 6th & 7th vertebra of the neck were cut, (iii) there was an incised wound in the size of 3.5 x 1.5 x 1 on the left side of the chest, as a result of which 6th, 7th, 8th, 9th &	

(15)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	10th ribs were cut, the above injuries were ante mortem in nature and caused by hard and sharp object. Therefore, in view of the discussion, we are of the opinion that judgment of the trial Court is based on the legal and clinching evidence. We do not find any illegality or infirmity in the judgment of the trial Court convicting the accused/appellant under Section 302 of the IPC for committing murder of Godma. 8. In the result, the appeal being devoid of substance is liable to be dismissed and is hereby dismissed. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Dhirendra Mishra** **Judge**